

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

FRANK SMITH,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-02082-JPM-tmp
v.)	
)	
TRANSPORTATION EMPLOYEE)	
LEASING, LCC,)	
)	
Defendant.)	
)	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION AND GRANTING
IN PART AND DENYING IN PART DEFENDANT’S MOTION TO DISMISS**

Before the Court is the Report and Recommendation filed by United States Chief Magistrate Judge Tu M. Pham on June 16, 2022 (ECF No. 16) with respect to Defendant Transportation Employee Leasing, LLC’s Motion to Dismiss (ECF No. 10). The Magistrate Judge submits that Defendant’s Motion should be granted in part and denied in part. (ECF No. 16 at PageID 54.) For the reasons discussed below, the Court **ADOPTS** the Magistrate Judge’s Report and Recommendation in its entirety.

I. PROCEDURAL BACKGROUND

On February 11, 2022, Plaintiff filed a pro se Complaint for discrimination by Defendant under Title VII, the Age Discrimination in Employment Act (“ADEA”), and the Americans with Disabilities Act (“ADA”). (ECF No. 1.) Defendant filed this Motion to Dismiss on March 28, 2022. (ECF No. 10.) Plaintiff filed a Response on May 25, 2022. (ECF No. 12.) Defendant filed a Reply on June 6, 2022. (ECF No. 14.) Plaintiff then responded again on June 15, 2022.

(ECF No. 15.) The Magistrate Judge's Report and Recommendation was filed on June 16, 2022. (ECF No. 16.) Objections to the Report and Recommendation were due on June 30, 2022, and no objections were filed.

II. LEGAL STANDARD

"Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b) advisory committee note.

III. ANALYSIS

Because no objections were filed, the Court reviews the Report and Recommendation for clear error. Fed. R. Civ. P. 72(b)(3). Upon full review of the Magistrate Judge's Report and Recommendation, the Court has not identified any clear error and concurs with the Magistrate Judge's findings. The Report and Recommendation is, therefore, **ADOPTED** in full. Transportation Employee Leasing, LLC's Motion to Dismiss is **GRANTED IN PART** and **DENIED IN PART**. The ADEA claim (age claim) asserted by Plaintiff may proceed. All other claims are dismissed for the reasons set out in the Report and Recommendation. This case should proceed to the scheduling conference currently set for Monday, July 18, 2022 at 11:00 a.m.

SO ORDERED, this 8th day of July, 2022.

/s/ Jon P. McCalla

JON P. McCALLA
UNITED STATES DISTRICT JUDGE